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1 A proposal to amend
 2 Section 16 of Article I of the State Constitution to
 3 revise and establish additional rights of victims of
 4 crime.

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 6 Be It Proposed by the Constitution Revision Commission of
 7 Florida:

8
 9 Section 16 of Article I of the State Constitution is
 10 amended to read:

11 ARTICLE I

12 DECLARATION OF RIGHTS

13 SECTION 16. Rights of accused and of victims.—

14 (a) In all criminal prosecutions the accused shall, upon
 15 demand, be informed of the nature and cause of the accusation,
 16 and shall be furnished a copy of the charges, and shall have the
 17 right to have compulsory process for witnesses, to confront at
 18 trial adverse witnesses, to be heard in person, by counsel or
 19 both, and to have a speedy and public trial by impartial jury in
 20 the county where the crime was committed. If the county is not
 21 known, the indictment or information may charge venue in two or
 22 more counties conjunctively and proof that the crime was
 23 committed in that area shall be sufficient; but before pleading
 24 the accused may elect in which of those counties the trial will
 25 take place. Venue for prosecution of crimes committed beyond the
 26 boundaries of the state shall be fixed by law.

27 (b) To preserve and protect the right of crime victims to
 28 achieve justice, ensure a meaningful role throughout the
 29 criminal and juvenile justice systems for crime victims, and

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30 ensure that crime victims' rights and interests are respected
31 and protected by law in a manner no less vigorous than
32 protections afforded to criminal defendants and juvenile
33 delinquents, every victim is entitled to the following rights,
34 beginning at the time of his or her victimization:

35 (1) The right to due process and to be treated with
36 fairness and respect for the victim's dignity.

37 (2) The right to be free from intimidation, harassment, and
38 abuse.

39 (3) The right, within the judicial process, to be
40 reasonably protected from the accused and any person acting on
41 behalf of the accused. However, nothing contained herein is
42 intended to create a special relationship between the crime
43 victim and any law enforcement agency or office absent a special
44 relationship or duty as defined by Florida law.

45 (4) The right to have the safety and welfare of the victim
46 and the victim's family considered when setting bail, including
47 setting pretrial release conditions that protect the safety and
48 welfare of the victim and the victim's family.

49 (5) The right to prevent the disclosure of information or
50 records that could be used to locate or harass the victim or the
51 victim's family, or which could disclose confidential or
52 privileged information of the victim.

53 (6) A victim shall have the following specific rights upon
54 request:

55 a. The right to reasonable, accurate, and timely notice of,
56 and to be present at, all public proceedings involving the
57 criminal conduct, including, but not limited to, trial, plea,
58 sentencing, or adjudication, even if the victim will be a

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59 witness at the proceeding, notwithstanding any rule to the
60 contrary. A victim shall also be provided reasonable, accurate,
61 and timely notice of any release or escape of the defendant or
62 delinquent, and any proceeding during which a right of the
63 victim is implicated.

64 b. The right to be heard in any public proceeding involving
65 pretrial or other release from any form of legal constraint,
66 plea, sentencing, adjudication, or parole, and any proceeding
67 during which a right of the victim is implicated.

68 c. The right to confer with the prosecuting attorney
69 concerning any plea agreements, participation in pretrial
70 diversion programs, release, restitution, sentencing, or any
71 other disposition of the case.

72 d. The right to provide information regarding the impact of
73 the offender's conduct on the victim and the victim's family to
74 the individual responsible for conducting any presentence
75 investigation or compiling any presentence investigation report,
76 and to have any such information considered in any sentencing
77 recommendations submitted to the court.

78 e. The right to receive a copy of any presentence report,
79 and any other report or record relevant to the exercise of a
80 victim's right, except for such portions made confidential or
81 exempt by law.

82 f. The right to be informed of the conviction, sentence,
83 adjudication, place and time of incarceration, or other
84 disposition of the convicted offender, any scheduled release
85 date of the offender, and the release of or the escape of the
86 offender from custody.

87 g. The right to be informed of all postconviction processes

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88 and procedures, to participate in such processes and procedures,
89 to provide information to the release authority to be considered
90 before any release decision is made, and to be notified of any
91 release decision regarding the offender. The parole or early
92 release authority shall extend the right to be heard to any
93 person harmed by the offender.

94 h. The right to be informed of clemency and expungement
95 procedures, to provide information to the governor, the court,
96 any clemency board, and other authority in these procedures, and
97 to have that information considered before a clemency or
98 expungement decision is made; and to be notified of such
99 decision in advance of any release of the offender.

100 (7) The rights of the victim, as provided in subparagraph
101 (6)a., subparagraph (6)b., or subparagraph (6)c., that apply to
102 any first appearance proceeding are satisfied by a reasonable
103 attempt by the appropriate agency to notify the victim and
104 convey the victim's views to the court.

105 (8) The right to the prompt return of the victim's property
106 when no longer needed as evidence in the case.

107 (9) The right to full and timely restitution in every case
108 and from each convicted offender for all losses suffered, both
109 directly and indirectly, by the victim as a result of the
110 criminal conduct.

111 (10) The right to proceedings free from unreasonable delay,
112 and to a prompt and final conclusion of the case and any related
113 postjudgment proceedings.

114 a. The state attorney may file a good faith demand for a
115 speedy trial and the trial court shall hold a calendar call,
116 with notice, within fifteen days of the filing demand, to

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117 schedule a trial to commence at a date at least five days but no
118 more than sixty days after the date of the calendar call unless
119 the trial judge enters an order with specific findings of fact
120 justifying a trial date more than sixty days after the calendar
121 call.

122 b. All state-level appeals and collateral attacks on any
123 judgment must be complete within two years from the date of
124 appeal in non-capital cases and five years in capital cases,
125 unless a court enters an order with specific findings as to why
126 the court was unable to comply with this subparagraph and the
127 circumstances causing the delay. Each year, the chief judge of
128 any district court of appeal or the chief justice of the supreme
129 court shall report on a case-by-case basis to the speaker of the
130 house of representatives and the president of the senate all
131 cases where the court entered an order regarding inability to
132 comply with this subparagraph. The legislature may enact
133 legislation to implement this subparagraph.

134 (11) The right to be informed of these rights, and to be
135 informed that victims can seek the advice of an attorney with
136 respect to their rights. This information shall be made
137 available to the general public and provided to all crime
138 victims in the form of a card, or other means that is intended
139 to effectively advise the victim of their rights under this
140 section.

141 (c) The victim, the retained attorney of the victim, a
142 lawful representative of the victim, or the office of the state
143 attorney upon request of the victim, may assert and seek
144 enforcement of the rights enumerated in this section and any
145 other right afforded to a victim by law in any trial or

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146 appellate court, or before any other authority with jurisdiction
147 over the case, as a matter of right. The court or other
148 authority with jurisdiction shall act promptly on such a
149 request, affording a remedy by due course of law for the
150 violation of any right. The reasons for any decision regarding
151 the disposition of a victim's right shall be clearly stated on
152 the record.

153 (d) The granting of these rights enumerated in this section
154 to victims may not be construed to deny or impair any other
155 rights possessed by victims. The provisions of this section
156 apply throughout criminal and juvenile justice processes are
157 self-executing and do not require implementing legislation. This
158 section may not be construed to create any cause of action for
159 damages against the state or a political subdivision of the
160 state, or any officer, employee, or agent of the state or its
161 political subdivisions.

162 (e) As used in this section, a "victim" is a person who
163 suffers direct or threatened physical, psychological, or
164 financial harm as a result of the commission or attempted
165 commission of a crime or delinquent act or against whom the
166 crime or delinquent act is committed. The term "victim" includes
167 the victim's lawful representative, the parent or guardian of a
168 minor, or the next of kin of a homicide victim, except upon a
169 showing that the interest of such individual would be in actual
170 or potential conflict with the interests of the victim. The term
171 "victim" does not include the accused. The terms "crime" and
172 "criminal" include delinquent acts and conduct ~~Victims of crime~~
173 ~~or their lawful representatives, including the next of kin of~~
174 ~~homicide victims, are entitled to the right to be informed, to~~

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175 ~~be present, and to be heard when relevant, at all crucial stages~~
176 ~~of criminal proceedings, to the extent that these rights do not~~
177 ~~interfere with the constitutional rights of the accused.~~